IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

Bail Appl..No. 4094 of 2007()

CP.179/2004 of J.M.F.C.,KATTAKADA

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(CRIME NO.94/2002 OF KATTAKADA EXCISE RANGE)

PETITIONER: ACCUSED IN CR.94/2002 OF KATTAKKADA EXCISE RANGE:

KUNJUMON, S/O.PONNAYYAN NADAR,
MARY SADANAM, POOTHOTTUKONAM, KUTTICHAL,
KOKKUDI MURI, MANNOORKKARA VILLAGE,
NEDUMANGAD TALUK, THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.RAM MOHAN.G.
SRI.G.P.SHINOD
SRI.MANU V.

RESPONDENTS: COMPLAINAT IN CR.94 OF 2002:

STATE OF KERALA REPRESENTED BY ITS
PUBLIC PROSECUTOR AT HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No.4094 Of 2007

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Dated this the 6th day of July, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations under the Kerala Abkari Act. He was allegedly found to be in possession of 10 litres of arrack on 27.11.02. Investigation is complete. Final report has already been filed. Committal proceedings has been registered. The petitioner has not appeared before the learned Magistrate so far. He finds coercive processes issued by the learned Magistrate chasing him. The petitioner submits that he is absolutely innocent. His absence earlier was not wilful. He is prepared to surrender before the learned Magistrate. But he apprehends that his application for regular bail after surrender may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He therefore prays that a direction may be issued under Section 438 and/or 482 Cr.P.C in favour of him

2. I find no reason to invoke the powers under Section 438 and/or 482 Cr.P.C., in this case. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. The learned Magistrate must consider such

application for bail on merits, in accordance with law and expeditiously. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This bail application is, in these circumstances, dismissed, but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for regular bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE